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MAY 22 2013

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

Sean Gallagher
Clerk of the Boards
Bay Area Air Quality
Management District

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In the Matter of the Application of)
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CROCKETT COGENERATION, LP) No. 3649
)
For a Variance from Regulation 2, Rule 6,) ORDER GRANTING VARIANCE
Section 307 and Regulation 2, Rule 2,)
Section 301)
_____)

The above-entitled matter is an Application for Variance from the provisions of Regulation 2, Rule 6, Section 307 and Regulation 2, Rule 2, Section 301 of the Rules and Regulations of the Bay Area Air Quality Management District (the "District"). The Application for Variance was filed on March 29, 2013, and requested relief for the period from April 22, 2013, through May 5, 2013.

Christopher Sargent, Environmental Specialist of Crockett Cogeneration, LP, appeared on behalf of Crockett Cogeneration, LP ("Applicant").

Todd Gonsalves, Assistant Counsel, appeared for the Air Pollution Control Officer ("APCO").

The Clerk of the Hearing Board provided notice of this hearing on the Application for Variance in accordance with the requirements of the California Health and Safety Code. The Hearing Board heard the request for variance on May 2, 2013.

The Hearing Board provided the public an opportunity to testify at the hearing as required by the California Health and Safety Code, but no one did so. The Hearing Board heard evidence, testimony and argument from Applicant and the APCO. The APCO did not oppose the granting of the variance.

The Hearing Board declared the hearing closed after receiving evidence, testimony and

1 argument, and took the matter under submission for decision. After consideration of the evidence,
2 the Hearing Board voted to grant the request for variance, as set forth in more detail below:

3 BACKGROUND

4 Applicant Crockett Cogeneration, LP, operates a cogeneration facility located at 550 Loring
5 Avenue in Crockett, California (the "Facility").

6 The Facility operates a natural gas fired combustion turbine ("S-201") in conjunction with a
7 heat recovery steam generator ("S-202") and steam turbine to produce electricity for the California
8 electricity grid and steam for the C & H Sugar Plant in Crockett, California. The Facility's District-
9 issued Title V permit designates the combustion turbine as S-201 and the heat recovery steam
10 generator as S-202. The Facility also operates three auxiliary steam boilers.

11 Regulation 2, Rule 2, Section 301 of the District Rules and Regulations requires an applicant
12 for a District permit to operate to apply best available control technology to certain sources.

13 Regulation 2, Rule 6, Section 307 of the District Rules and Regulations, in relevant part,
14 requires any facility subject to major facility review to adhere to any federally enforceable applicable
15 requirement set forth in its major facility review permit.

16 The Facility operates under a major facility review permit (the "Title V permit") issued under
17 District Regulation 2, Rule 6. Condition 14970, Part 9.b, of the Facility's Title V permit limits the
18 emission of oxides of nitrogen (NOx) from S-201 and S-202 to no more than 5.0 ppmv, corrected to
19 15% oxygen on a dry basis, and averaged over any rolling 3-hour period. Condition 14970, Part 9.d,
20 of the Facility's Title V permit limits the emission of carbon monoxide (CO) from S-201 and S-202
21 to no more than 10 ppmv, corrected to 15% oxygen on a dry basis, and averaged over any rolling 3-
22 hour period. In addition, Condition 14970 of the Facility's Title V permit limits, in Part 20.a, the
23 Facility's daily emission of NOx to no more than 969.7 pounds, and, in Part 20.b, the Facility's daily
24 emission of CO to no more than 745 pounds. The emission limits of Condition 14970 described in
25 this paragraph are federally enforceable.

1 On August 1, 2012, combustion turbine blade failures caused damage to the S-201 turbine
2 compressor. General Electric, which services the combustion turbine for Applicant, concluded the
3 compressor must be replaced because of the damage it sustained on August 1. In order to ensure the
4 proper operation of S-201, Applicant must commission the replacement compressor after its
5 installation. Failure to do so would void the manufacturer's warranty.

6 On April 29, 2013, Applicant commissioned the replacement compressor. To commission the
7 replacement compressor, Applicant had to run S-201 at full speed, but with no load, for at least 4
8 hours. Applicant completed the commissioning in four hours, and as a result, did not exceed either of
9 the daily emission limits in Permit Condition 14970, Part 20.a or Part 20.b. However, during the
10 commissioning, the emissions of NOx from S-201 reached a three-hour average concentration of 11
11 ppmv, in violation of Part 9.b of Permit Condition 14970. Likewise, emissions of CO from S-201
12 reached a three-hour average of 27.6 ppmv, in violation of Part 9.d of Permit Condition 14970. The
13 exceedances of the emission concentration limits resulted in the excess emission of 17.51 pounds of
14 NOx and 25.02 pounds of CO.

15 During commissioning, Applicant minimized operation of the three auxiliary steam boilers.

16 Throughout commissioning, Applicant monitored emissions with a continuous emission
17 monitoring system.

18 DISCUSSION

19 The Hearing Board may grant a variance upon finding that the criteria set forth in Health and
20 Safety Code § 42352 are met. The burden is on Applicant to establish the basis for making each of
21 the Findings. In this matter, Applicant has provided sufficient evidence to demonstrate that each of
22 the criteria has been met.

23 Applicant was in violation of Regulation 2, Rule 6, Section 307 and Regulation 2, Rule 2,
24 Section 301 because the emissions of S-201 exceeded the emission concentration limits for NOx and
25 CO set out in Condition 14970, Part 9 of the Facility's Title V permit.

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1 The violation of the above-referenced regulations occurred during the variance period on
2 April 29, 2013, during the four hours Applicant commissioned the replacement compressor.

3 The violation was the result of conditions beyond the reasonable control of Applicant and
4 requiring immediate compliance would have resulted in an arbitrary taking of property or the practical
5 closing and elimination of a lawful business. The violation was beyond Applicant's reasonable
6 control because commissioning the replacement compressor was essential to the proper operation of
7 S-201. Also, a failure to commission the replacement compressor would have voided the
8 manufacturer's warranty. As a result, and because the Facility itself could not function unless S-201
9 operates properly, requiring immediate compliance would have resulted in an arbitrary taking of
10 property.

11 The burdens to Applicant would be without a corresponding benefit in reducing air
12 contaminants because Applicant did not exceed the daily limits for either NOx or CO set out in
13 Condition 14970, Part 20 of the Facility's Title V permit.

14 Applicant did curtail the Facility's operations to reduce emissions by minimizing the duration
15 of the commissioning activity and minimizing the operation of the three auxiliary steam boilers
16 during the commissioning.

17 SPECIFIC FINDINGS

18 The Hearing Board finds pursuant to Health and Safety Code section 42352 that:

19 1. On April 29, 2013, Applicant was in violation of Regulation 2, Rule 2, Section
20 301 and Regulation 2, Rule 6, Section 307 of the District Rules and Regulations. Regulation 2, Rule
21 2, Section 301 of the District Rules and Regulations requires an applicant for a District permit to
22 operate to apply best available control technology to certain sources. Regulation 2, Rule 6, Section
23 307 of the District Rules and Regulations, in relevant part, requires any facility subject to major
24 facility review to adhere to any federally enforceable applicable requirement set forth in its major
25 facility review permit. Condition 14970, Part 9.b, of the Facility's Title V permit limits the emission
26 of oxides of nitrogen (NOx) from S-201 and S-202 to no more than 5.0 ppmv, corrected to 15%

1 oxygen on a dry basis, and averaged over any rolling 3-hour period. Condition 14970, Part 9.d, of the
2 Facility's Title V permit limits the emission of carbon monoxide (CO) from S-201 and S-202 to no
3 more than 10 ppmv, corrected to 15% oxygen on a dry basis, and averaged over any rolling 3-hour
4 period. During the commissioning on April 29, 2013, the emissions of NOx from S-201 reached a
5 three-hour average concentration of 11 ppmv, and the emissions of CO from S-201 reached a three-
6 hour average of 27.6 ppmv, resulting in the excess emission of 17.51 pounds of NOx and 25.02
7 pounds of CO.

8 2. Due to conditions beyond the reasonable control of Applicant, requiring compliance
9 with Regulation 2, Rule 2, Section 301 and Regulation 2, Rule 6, Section 307 would result in an
10 arbitrary and unreasonable taking of property or the practical closing of a lawful business. The
11 commissioning of the replacement compressor was essential to the proper operation of S-201,
12 which, in turn, is essential to the continued operation of the Facility.

13 3. The hardship due to requiring immediate compliance with Regulation 2, Rule 2,
14 Section 301 and Regulation 2, Rule 6, Section 307 would be without a corresponding benefit in
15 reducing air contaminants. Due to Applicant's actions to mitigate excess emissions during the
16 commissioning on April 29, 2013, emissions resulting from the violations exceeded only the
17 concentration limits set out in Condition 14970, Part 9 of the Facility's Title V permit, but did not
18 exceed the daily mass emission limits set out in Part 20 of that permit condition; however, the
19 economic burden associated with requiring the Facility to forego commissioning the replacement
20 compressor would have been considerable.

21 4. Applicant could not have curtailed operations in lieu of obtaining a variance
22 without significant financial hardship.

23 5. During the variance period, Applicant reduced excess emissions to the maximum
24 extent feasible by minimizing the duration of the commissioning activity and minimizing the
25 operation of the three auxiliary steam boilers during the commissioning.

26 6. Applicant monitored emissions with a continuous emission monitoring system

1 throughout the commissioning on April 29, 2013.

2
3 THEREFORE, THE HEARING BOARD ORDERS:

4 A variance from Regulation 2, Rule 2, Section 301 and Regulation 2, Rule 6, Section 307 of
5 the Bay Area Air Quality Management District Rules and Regulations to the extent they require
6 compliance with Condition 14970, Parts 9.b and 9.d of the Facility's Title V permit, is hereby
7 granted for April 29, 2013, only.

8 Moved by: Gilbert Bendix, P.E.

9 Seconded by: Julio Magalhães, Ph.D.

10 AYES: Julio Magalhães, Ph.D., Gilbert Bendix, P.E., Peter Chiu, M.D., Rolf
11 Lindenhayn, Esq., and Terry A. Trumbull, Esq.

12 NOES: None

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16 Terry A. Trumbull, Esq., Chair

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Date

BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the Matter of the Application of)
CROCKETT COGENERATION, a California)
Limited Partnership,)

NO. 3649

For Short Variance from Regulation 2, Rule 2,)
Section 301 (Plant #A8664).)
_____)

CERTIFICATE OF SERVICE

STATE OF CALIFORNIA)
City and County of San Francisco) ss.

I, Sean Gallagher, do hereby certify under penalty of perjury as follows:

That I am a citizen of the United States, over the age of eighteen years and not a party to the above entitled action, and that I served a true copy of the attached Order Granting Variance on:

**Christopher Sargent
Crockett Cogeneration
550 Loring Avenue
Crockett, CA 94525**

by depositing same in the United States certified mail, return receipt requested, postage prepaid, on June 6, 2013; and on

**Todd Gonzalves
Assistant Counsel
Bay Area Air Quality Management District
939 Ellis Street, 7th Floor
San Francisco, CA 94109**

by hand-delivery deposit of same in the in-box of the District Counsel's office, on June 6, 2013.

DATED: June 6, 2013



Sean Gallagher
Clerk of the Boards